

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

BRENT GREGORY MOORE, #1466597	§	
VS.	§	CIVIL ACTION NO. 6:07cv323
J. B. SMITH, ET AL.	§	

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the civil rights complaint should be dismissed pursuant to 28 U.S.C. § 1915A(b)(1). The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit.

It is noted that the Plaintiff stated in his objections that his “injuries were neglected with deliberate indifference.” He has confused two concepts. Negligence and deliberate indifference are inconsistent concepts. Negligence does not provide a basis for a potentially meritorious civil rights lawsuit; instead, the standard is deliberate indifference. *Farmer v. Brennan*, 511 U.S. 825, 835 (1994). In the present case, the facts as alleged and developed reveal that the Defendants were

responsive to the Plaintiff's medical needs and were not deliberately indifferent. The objections lack merit. Therefore the Court adopts the findings and conclusions of the magistrate judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the complaint is **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915A(b)(1). It is further

ORDERED that all motions not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 2nd day of May, 2008.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE